

Service Date: September 4, 1979

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application of)
GREAT FALLS GAS COMPANY for)
Authority to Increase Rates for Natural)
Gas Services.)

Docket No. 6701

PROCEDURAL ORDER

Under the authority of ARM Section 38-2.2(34)-P2360, the Commission is entering this order setting out the procedure to be followed in this Docket. These procedures have been developed prior to and as a result of a pre-hearing conference held on August 27, 1979, pursuant to published notice.

It is HEREBY ORDERED:

1. The use of the term "parties" includes the Applicant, Great Falls Gas Co., all intervenors, and the Consumer Counsel.
2. All dates listed in this schedule are mailing dates. Parties must mail all material by the most expeditious method which is available at reasonable cost.
3. Unless otherwise hereinafter specified, the following schedule shall apply to Docket 6701.
4. The schedule for this Docket is:
 - (a) October 5, 1979: Final day as a matter of right for discovery and data requests directed to Great Falls Gas Co.; final day for timely filing of Petitions to Intervene by parties who are interested in and directly affected by this Docket.

- (b) October 16, 1979: Final day for completion by Great Falls Gas Co. of all answers and responses to discovery and data requests directed to Great Falls Gas Co. by other parties.
- (c) November 5, 1979: Final day for completion and service upon Great Falls Gas Co. and other parties of the prepared testimony and exhibits of all parties except Great Falls Gas Co.; final day for filing by all parties of a position statement specifying the positions to be taken in the case.
- (d) November 21, 1979: Final day as a matter of right for discovery and data requests directed to all parties by Great Falls Gas Co. and intervenor data requests of parties other than Great Falls Gas Co.
- (e) December 6, 1979: Final day for completion of answers by all parties other than Great Falls Gas Co. to discovery and data requests made pursuant to 4(d).
- (f) December 21, 1979: Final day for service of rebuttal testimony by Great Falls Gas Co.
- (g) January 3, 1980: Final day for any party which intends to introduce as evidence, data requests or other discovery as part of its basic case, to notify all parties of the specific data requests or other discovery it plans to so introduce.

Parties introducing data requests or other discovery must have copies of each request and response available at the hearing for the court reporter, (2 copies) each Commissioner, the Commission staff and all parties.

Final day for any party which intends to request official notice of data requests, other discovery or other information, to notify all parties of the specific data requests, other discovery or other information for which official notice will be requested.

Admissability of data requests or other discovery will be governed by the Montana Rules of Civil Procedure, the Montana Rules of Evidence and relevant case law. It is the Commission staff's position that these rules generally preclude a party from introducing its responses to another party's data requests or others' discovery procedures.

- (h) January 8, 1980: Opening day of hearing in Docket 6701. Witnesses will be examined once concerning all phases of their prefiled testimony. Each witness for Great Falls Gas Co. will first be examined on his direct and then on his rebuttal testimony. Each witness of the opponent will be examined on his answer testimony.

Following the deadline for intervention, the Commission will issue a proposed order designating the sequence of witnesses and the sequence of cross-examination. Following an opportunity for comments, an order will be issued. Witnesses must be available in the order designated unless unforeseen emergencies arise which delay their appearances.

6. Parties seeking to intervene after October 5, 1979, must file a Petition to Intervene with the Commission. The petition shall demonstrate (A) the position that the intervenor will take if the intervention is granted, (B) that the proposed intervenor has an interest in and is directly affected

by this Docket, (C) that the intervention, if granted, will not delay or prejudice the proceeding in the Docket, and (D) good cause why the petition was not timely filed. (ARM Section 38-2.2(30)-P2290 et seq., and P2310).

7. The period prior to October 5, 1979, is the time for discovery by parties seeking information from Great Falls Gas Co. All parties must submit their discovery and data requests directly to Great Falls Gas Co., with simultaneous copies to all parties and the Commission with certificate of service attached. Great Falls Gas Co. has the right to object within five (5) days of receipt of the request. The objection and notice thereof shall be served upon the Commission and all parties of record. The Commission may dispose of such objections by prompt ruling, or may schedule a hearing on the objections upon five business days notice. Rulings on objections will be made within five business days of such hearings. Failure to object promptly will be deemed acceptance of the request, and objections to the request will not be entertained later.

8. In the event any requesting party is dissatisfied with the response to any data or discovery request, such party shall, within five (5) days after receipt of such response, serve in writing upon the Commission, and simultaneously upon all parties of record, its objections to such response. The Commission may dispose of such objections by prompt ruling, or may schedule a hearing on the objections upon five (5) business days notice. Within five business days of such hearing, the Commission shall issue its order either sustaining or overruling the objections. If objections are sustained, a satisfactory response shall be furnished within the time provided for the original request. This provision applies to all responses contemplated by this Order.

9. In the period following October 5, 1979, further submission of discovery and data requests to Great Falls Gas Co. by any party must be made through the Commission, and will be disallowed unless the party making the request shows good cause why the request was not made before October 5, 1979. Responses will be made within ten (10) days unless Great Falls Gas Co. obtains an extension of time.

10. Failure by the Applicant to respond by October 16, 1979, to all requests made by October 5, 1979, may, in the discretion of the Commission, result in delay of the hearing for a time equal to the time Applicant is in default on such response.

11. The period from November 5, 1979, through November 21, 1979, is the period of time for Great Falls Gas Co. and other parties to seek discovery from parties in the case other than Great Falls Gas Co. Requests shall be served upon all parties. Any party receiving a request from Great Falls Gas Co. or another party has the right to object within five (5) days of receipt of a request, and the procedure outlined in paragraphs 7 and 8 shall apply.

12. In the period following November 21, 1979, further submission of discovery and data requests by Great Falls Gas Co. and other parties must be made through the Commission, and will be disallowed unless the requesting party shows good cause why the request was not made prior to November 21, 1979. Responses to requests approved by the Commission after November 21, 1979, will be made within ten (10) days unless the party to whom the request is made obtains an extension from the Commission.

13. Unless excused by the Commission, failure by a party to answer data requests or other discovery from any party may result in:

- (a) An order refusing to allow the disobedient party to support or oppose designated claims, or prohibiting him from introducing designated matters in evidence;
- (b) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof.

14. The Commission may, with five (5) business days notice, set a final Prehearing Conference in the January 3, 1980-January 8, 1980, period. At that prehearing conference there may be discussed, among other things, the feasibility of settlement of any issues in the proceeding, simplification of issues, possibility of obtaining admissions of fact and documents, the distribution and marking of new written testimony and exhibits prior to the hearing, and such other matters as may aid in the disposition of the proceeding or settlement thereof.

15. The term "discovery" as used in this Order includes all forms of discovery authorized by the Montana Rules of Civil Procedure, as well as informal "data requests."

It is the intention of the Commission that parties should first attempt to obtain desired information through data requests. If information so requested is not forthcoming, then a party should utilize the more formal discovery vehicles.

16. Discovery and data requests by intervenors and staff will be served on all parties. The purpose of this is to reduce the number of duplicate requests.

17. Unless otherwise agreed between individual parties, copies of answers to all discovery and data requests will be served only on parties

specifically requesting them and on the Commission. In this connection the term "parties" includes the parties, their attorneys, and witnesses not located in the same town as the party. If any party wants material requested by any other party, it should so inform the party to whom the data request or discovery was directed.

18. Prepared direct, answer and rebuttal testimony will be adopted into the record without the need of recitation by the witness. This procedure will eliminate retyping of prepared testimony into the hearing transcript. Objections to prefiled testimony and motions to strike will be made in advance of the hearing, according to the following schedule: (1) as to Great Falls Gas Co. direct testimony and exhibits, at the time answer testimony is filed; (2) as to answer testimony and exhibits, at the time rebuttal testimony is filed; and (3) as to rebuttal testimony and exhibits and any other testimony or exhibits otherwise mentioned, within one week after the filing of such testimony and exhibits.

The Commission contemplates a progressive narrowing of issues as testimony proceeds from direct to rebuttal. Introduction of new issues or significantly different data will be carefully scrutinized, and disallowed unless reasonably related to the testimony prefiled in conformance with this order.

19. The rules of evidence applicable in the District Courts of the State of Montana at the time of the hearings in this Docket will be used at the hearings.

20. Citizens and citizen groups will, in the discretion of the Commission, be allowed to make statements without having submitted prepared written testimony; in addition, if they have prepared written testimony they

may read it if they desire, or they may have it adopted directly into the record without reading, as in the case of other prepared written testimony.

21. Two (2) copies of prepared written testimony shall be given to the court reporter.

22. All exhibits and prepared written testimony shall be marked for identification in advance. Parties shall arrange in advance with the court reporter the manner of identifying their exhibits.

23. When cross-examination is based on a document, not previously filed with the Commission, either copies of the document will be made available at that time to the Commission, or good cause will be shown why copies are not available.

24. Objections by any party to any procedural matter connected with this Docket, including objection to any notice given, shall be raised on written or oral motion at the earliest possible time in order that the Commission may make any necessary correction.

25. All parties shall serve the noted number of copies of pleadings on the people listed on the most current service list in the files of the Commission.

26. Prehearing motions shall be submitted on briefs unless otherwise requested by a party. If oral argument is requested, and the request is granted, the party requesting oral argument shall notice the same for hearing before the Commission.

Should the dates established in this order be changed, an amended procedural order will be issued changing the various deadlines herein established. Furthermore, the Commission may, at any time prior to the hearings, suspend the schedule established herein in order to permit addi-

tional staff data requests and to allow for the filing of staff testimony. If this schedule is suspended, an amended procedural order will be issued fixing a new schedule.

27. The Commission has adopted several measures intended to facilitate public participation in this Docket:

(a) The Position Statements referred to in section 4(c) are intended to be short, clear statements of each party's basic contentions, and should be written with the general public in mind.

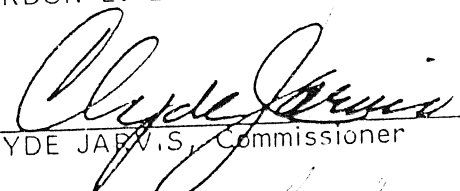
(b) Prefiled testimony of any individual should be accompanied by a short, clear summary of that testimony. This summary should also be written with the general public in mind, and is not intended to become part of the record. Great Falls Gas Co. must file summaries on or before October 5, 1979.

28. Nothing in this Order shall be construed to limit the legally established right of staff to inspect the books and accounts of Great Falls Gas Co. at any time.

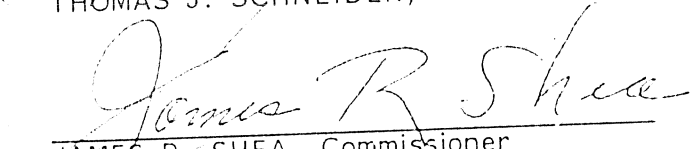
DONE AND DATED THIS 4th day of September, 1979.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.


GORDON E. BOLLINGER, Chairman


CLYDE JARVIS, Commissioner


THOMAS J. SCHNEIDER, Commissioner


JAMES R. SHEA, Commissioner


GEORGE TURMAN, Commissioner

ATTEST:

Madeline L. Cottrill
Secretary

(SEAL)

NOTE:

You are entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38-2.2(64)-P2750, ARM.